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E-Filed 10/28/2009

Attorneys for Defendants
CITY OF SUNNYVALE,
CHRIS SEARLE and DARREN PANG

ERIKA CANAS, JOSE CANAS, a minor, by
and through his guardian ad litem, and JESUS
CANAS, by and through his guardian ad litem,

Plaintiffs,
vs.

CITY OF SUNNYVALE, CHRIS SEARLE,
DARREN PANG and DOES ONE through
TWENTY-FIVE,

Defendants.

Case No.: C08-05771 JF

**STIPULATION AND [PROPOSED] ORDER
TO CONTINUE MOTION TO DISMISS
PLAINTIFF'S THIRD AMENDED
COMPLAINT AND CASE MANAGEMENT
CONFERENCE**

IT IS HEREBY STIPULATED by the parties hereto, through their respective undersigned attorneys of record, that defendants' Motion to Dismiss plaintiff's Third Amended Complaint be continued to 60 days after the further Early Neutral Evaluation (hereinafter "ENE"), which has been scheduled for November 20. In addition the parties wish to move the next Case Management Conference to a date 60 days after the further ENE. The parties have agreed upon a proposed protective order to be submitted to the court. Discovery will proceed once the proposed protective order has been entered by the court. The parties felt that discovery was needed to conduct a meaningful ENE, therefore a further ENE was scheduled. As the ENE may dispose of the case, we hereby respectfully request that the court continue the defendants' Motion to Dismiss plaintiff's Third Amended Complaint and the Case Management Conference to a date 60 days after the ENE scheduled for November 20 and propose the date of January 15, 2010 at 9am for both the Motion to

1 Dismiss and further CMC.

2 Dated: October 9, 2009

BERTRAND, FOX & ELLIOT

4 By: _____ /s/

5 Gregory M. Fox
6 Attorneys for Defendants
7 CITY OF SUNNYVALE, CHRIS SEARLE and
DARREN PANG

8 Dated: October 9, 2009

ROBERTS & ELLIOT LLP

10 By: _____ /s/

11 James Roberts, Esq.
12 Sharmi Shah, Esq.
13 Attorneys for Plaintiffs
14 ERIKA CANAS, JOSE CANAS, and JESUS CANAS

15 **ORDER**

16 Good cause appearing,

17 THE STIPULATION IS SO ORDERED.

18 Dated: 10/22/2009, 2009

19 _____
20 Hon. Jeremy R. Fogel
UNITED STATES DISTRICT COURT JUDGE

21 **ATTORNEY ATTESTATION**

22 I hereby attest that I have on file all holograph signatures for any signatures indicated by a
23 conformed signature ("s/") within this E-filed document.

25 Dated: October_13, 2009

_____ /s/
26 Gregory M. Fox